

AND NOW, this 31 day of July, 2008;

IT IS HEREBY ORDERED that Plaintiff's motions to proceed *in forma pauperis* (doc. nos. 1 & 6) be denied in accordance with 28 U.S.C. § 1915(g) and that this action be dismissed for Plaintiff's failure to pay the filing fee, with the right of Plaintiff to reopen by paying the full filing fee of \$350.00 within thirty (30) days.

IT IS FURTHER ORDERED that the Report and Recommendation (doc. no. 3) of Magistrate Judge Lenihan dated July 22, 2008, is adopted as the Opinion of the Court.

IT IS FURTHER ORDERED that the Clerk of Court mark this case **CLOSED**.

AND IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

By the Court:



Donetta W. Ambrose
United States District Judge, Chief

cc: Lisa Pupo Lenihan
United States Magistrate Judge

James M. Malarik, No. 130218
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